

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Regulatory Sunset Act is amended by changing Section 4.30 and by adding Section 4.40 as follows:

(5 ILCS 80/4.30)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

~~The Auction License Act.~~

The Community Association Manager Licensing and Disciplinary Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

The Pharmacy Practice Act.

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(Source: P.A. 100-497, eff. 9-8-17; 100-534, eff. 9-22-17; 100-863, eff. 8-14-18.)

(5 ILCS 80/4.40 new)

Sec. 4.40. Act repealed on January 1, 2030. The following Act is repealed on January 1, 2030:

The Auction License Act.

Section 10. The Auction License Act is amended by changing Sections 5-10, 10-5, 10-40, 10-45, 15-5, 15-15, 20-15, 20-43, and 20-56 and by adding Section 10-22 as follows:

(225 ILCS 407/5-10)

(Section scheduled to be repealed on January 1, 2020)

Sec. 5-10. Definitions. As used in this Act:

"Advertisement" means any written, oral, or electronic communication that contains a promotion, inducement, or offer to conduct an auction or offer to provide an auction service, including but not limited to brochures, pamphlets, radio and television scripts, telephone and direct mail solicitations, electronic media, and other means of promotion.

"Advisory Board" or "Board" means the Auctioneer Advisory Board.

~~"Associate auctioneer" means a person who conducts an auction, but who is under the direct supervision of, and is sponsored by, a licensed auctioneer or auction firm.~~

"Auction" means the sale or lease of property, real or personal, by means of exchanges between an auctioneer and prospective purchasers or lessees, which consists of a series

of invitations for offers made by the auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail, telecommunications, or the Internet.

"Auction contract" means a written agreement between an auctioneer or auction firm and a seller or sellers.

"Auction firm" means any corporation, partnership, or limited liability company that acts as an auctioneer and provides an auction service.

"Auction school" means any educational institution, public or private, that ~~which~~ offers a curriculum of auctioneer education and training approved by the Department.

"Auction service" means the service of arranging, managing, advertising, or conducting auctions.

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission, or any other valuable consideration at auction or with the intention or expectation of receiving valuable consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

"Address of record ~~Record~~" means the designated address

recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. ~~It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department.~~

"Buyer premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, auction firms, seller, lessor, or other party to the transaction, other than the purchase price.

"Department" means the Department of Financial and Professional Regulation.

"Division" means the Division of Real Estate within the Department.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file maintained by the Department's licensure maintenance unit.

"Goods" means chattels, movable goods, merchandise, or personal property or commodities of any form or type that may be lawfully kept or offered for sale.

"Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"Internet auction listing service" means a website on the Internet, or other interactive computer service, that is designed to allow or advertise as a means of allowing users to offer personal property or services for sale or lease to a prospective buyer or lessee through an online ~~on-line~~ bid submission process using that website or interactive computer service and that does not examine, set the price, prepare the description of the personal property or service to be offered, or in any way utilize the services of a natural person as an auctioneer.

"Licensee" means any person licensed under this Act.

"Managing auctioneer" means any person licensed as an auctioneer who manages and supervises licensees ~~sponsored by an auction firm or auctioneer.~~

"Person" means an individual, association, partnership, corporation, or limited liability company or the officers, directors, or employees of the same.

"Pre-renewal period" means the 24 months prior to the expiration date of a license issued under this Act.

"Real estate" means real estate as defined in Section 1-10 of the Real Estate License Act of 2000 or its successor Acts.

"Secretary" means the Secretary of ~~the Department of~~ Financial and Professional Regulation or his or her designee.

~~"Sponsoring auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed auctioneer.~~

~~"Sponsor card" means the temporary permit issued by the~~

~~sponsoring auctioneer certifying that the licensee named thereon is employed by or associated with the sponsoring auctioneer and the sponsoring auctioneer shall be responsible for the actions of the sponsored licensee.~~

(Source: P.A. 100-534, eff. 9-22-17.)

(225 ILCS 407/10-5)

(Section scheduled to be repealed on January 1, 2020)

Sec. 10-5. Requirements for auctioneer license; application. Every person who desires to obtain an auctioneer license under this Act shall:

(1) apply to the Department on forms provided by the Department accompanied by the required fee;

(2) be at least 18 years of age;

(3) have attained a high school diploma or successfully completed an equivalent course of study determined by an examination conducted by the Illinois State Board of Education; and

(4) pass a written examination authorized by the Department to prove competence, including but not limited to general knowledge of Illinois and federal laws pertaining to personal property contracts, auctions, real property, ethics, and other topics relating to the auction business. ~~and~~

~~(5) submit to the Department a properly completed 45 Day Permit Sponsor Card on forms provided by the~~

~~Department.~~

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-22 new)

Sec. 10-22. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 407/10-40)

(Section scheduled to be repealed on January 1, 2020)

Sec. 10-40. Restoration.

(a) A licensee whose license has lapsed or expired shall have 2 years from the expiration date to restore his or her license without examination. The expired licensee shall make application to the Department on forms provided by the Department, ~~including a properly completed 45-day permit sponsor card,~~ provide evidence of successful completion of 12 hours of approved continuing education during the period of time the license had lapsed, and pay all fees and penalties as

established by rule.

(b) Notwithstanding any other provisions of this Act to the contrary, any licensee whose license under this Act has expired is eligible to restore such license without paying any lapsed fees and penalties if ~~provided that~~ the license expired while the licensee was:

(1) on active duty with the United States Army, United States Marine Corps, United States Navy, United States Air Force, United States Coast Guard, the State Militia called into service or training;

(2) engaged in training or education under the supervision of the United States prior to induction into military service; or

(3) serving as an employee of the Department, while the employee was required to surrender his or her license due to a possible conflict of interest.

A licensee shall be eligible to restore a license under ~~the provisions of~~ this subsection for a period of 2 years following the termination of the service or, education if, ~~or training by providing a properly completed application and 45-day permit sponsor card, provided that~~ the termination was by other than dishonorable discharge and ~~provided that~~ the licensee furnishes the Department with an affidavit specifying that the licensee has been so engaged.

(c) At any time after the suspension, revocation, placement on probationary status, or other disciplinary action taken

under this Act with reference to any license, the Department may restore the license to the licensee without examination upon the order of the Secretary, if the licensee submits a properly completed application ~~and 45-day permit sponsor card,~~ pays the appropriate fees, and otherwise complies with the conditions of the order.

(Source: P.A. 95-331, eff. 8-21-07; 95-572, eff. 6-1-08; 96-730, eff. 8-25-09.)

(225 ILCS 407/10-45)

(Section scheduled to be repealed on January 1, 2020)

Sec. 10-45. Nonresident auctioneer reciprocity.

(a) A person holding a license to engage in auctions issued to him or her by the proper authority of a state, territory, or possession of the United States of America or the District of Columbia that has licensing requirements equal to or substantially equivalent to the requirements of this State and that otherwise meets the requirements of this Act may obtain a license under this Act without examination if, ~~provided:~~

(1) ~~that~~ the Department has entered into a valid reciprocal agreement with the proper authority of the state, territory, or possession of the United States of America or the District of Columbia from which the nonresident applicant has a valid license;

(2) ~~that~~ the applicant provides the Department with a certificate of good standing from the applicant's state of

licensure;

(3) ~~that~~ the applicant completes and submits an application as provided by the Department; and

(4) ~~that~~ the applicant pays all applicable fees required under this Act.

(b) A nonresident applicant shall file an irrevocable consent with the Department that actions may be commenced against the applicant or nonresident licensee in a court of competent jurisdiction in this State by the service of summons, process, or other pleading authorized by the law upon the Secretary. The consent shall stipulate and agree that service of the process, summons, or pleading upon the Secretary shall be taken and held in all courts to be valid and binding as if actual service had been made upon the applicant in Illinois. If a summons, process, or other pleading is served upon the Secretary, it shall be by duplicate copies, one of which shall be retained by the Department and the other immediately forwarded by certified or registered mail or email to the last known business address or email address of record of the applicant or nonresident licensee against whom the summons, process, or other pleading may be directed.

(Source: P.A. 95-572, eff. 6-1-08; 96-730, eff. 8-25-09.)

(225 ILCS 407/15-5)

(Section scheduled to be repealed on January 1, 2020)

Sec. 15-5. Representations. An auctioneer or auction firm,

or the ~~sponsored~~ licensees, agents, or employees of an auctioneer or auction firm, conducting an auction or providing an auction service shall not:

(1) misrepresent a fact material to a purchaser's decision to buy at or by auction;

(2) predict specific or immediate increases in the value of any item offered for sale at auction; or

(3) materially misrepresent the qualities or characteristics of any item offered for sale at auction.

(Source: P.A. 96-730, eff. 8-25-09.)

(225 ILCS 407/15-15)

(Section scheduled to be repealed on January 1, 2020)

Sec. 15-15. Supervisory duties. The ~~sponsoring auctioneer,~~ auction firm~~,~~ and managing auctioneer shall have the duty and responsibility to supervise, manage, and control any sponsored licensee, agent, or employee while conducting an auction or providing an auction service. Any violation of this Act by a ~~sponsored~~ licensee, agent, or employee of an ~~a sponsoring auctioneer,~~ auction firm~~,~~ or managing auctioneer shall be deemed to be a violation by the ~~sponsoring auctioneer,~~ auction firm~~,~~ or managing auctioneer as well as by the ~~sponsored~~ licensee, agent, or employee.

(Source: P.A. 91-603, eff. 1-1-00.)

(225 ILCS 407/20-15)

(Section scheduled to be repealed on January 1, 2020)

Sec. 20-15. Disciplinary actions; grounds. The Department may refuse to issue or renew a license, may place on probation or administrative supervision, suspend, or revoke any license or may reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 for each violation upon anyone licensed under this Act for any of the following reasons:

(1) False or fraudulent representation or material misstatement in furnishing information to the Department in obtaining or seeking to obtain a license.

(2) Violation of any provision of this Act or the rules adopted under ~~promulgated pursuant to~~ this Act.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession.

(3.5) Failing to notify the Department of any criminal conviction that occurs during the licensee's term of licensure within 30 days after the conviction.

(4) Being adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the

Mental Health and Developmental Disabilities Code.

(5) Discipline of a licensee by another state, the District of Columbia, a territory of the United States, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent to one of the grounds for discipline set forth in this Act or for failing to report to the Department, within 30 days, any adverse final action taken against the licensee by any other licensing jurisdiction, government agency, law enforcement agency, or court, or liability for conduct that would constitute grounds for action as set forth in this Act.

(6) Engaging in the practice of auctioneering, conducting an auction, or providing an auction service without a license or after the license was expired, revoked, suspended, or terminated or while the license was inoperative.

(7) Attempting to subvert or cheat on the auctioneer exam or any continuing education exam, or aiding or abetting another to do the same.

(8) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional service not actually or personally rendered, except that an auctioneer licensed under this Act may

receive a fee from another licensed auctioneer from this State or jurisdiction for the referring of a client or prospect for auction services to the licensed auctioneer.

(9) Making any substantial misrepresentation or untruthful advertising.

(10) Making any false promises of a character likely to influence, persuade, or induce.

(11) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through a licensee, agent, employee, advertising, or otherwise.

(12) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any auctioneer association or organization of which the licensee is not a member.

(13) Commingling funds of others with his or her own funds or failing to keep the funds of others in an escrow or trustee account.

(14) Failure to account for, remit, or return any moneys, property, or documents coming into his or her possession that belong to others, acquired through the practice of auctioneering, conducting an auction, or providing an auction service within 30 days of the written request from the owner of said moneys, property, or documents.

(15) Failure to maintain and deposit into a special account, separate and apart from any personal or other

business accounts, all moneys belonging to others entrusted to a licensee while acting as an auctioneer, ~~associate auctioneer~~, auction firm, or as a temporary custodian of the funds of others.

(16) Failure to make available to Department personnel during normal business hours all escrow and trustee records and related documents maintained in connection with the practice of auctioneering, conducting an auction, or providing an auction service within 24 hours after a request from Department personnel.

(17) Making or filing false records or reports in his or her practice, including but not limited to false records or reports filed with State agencies.

(18) Failing to voluntarily furnish copies of all written instruments prepared by the auctioneer and signed by all parties to all parties at the time of execution.

(19) Failing to provide information within 30 days in response to a written request made by the Department.

(20) Engaging in any act that constitutes a violation of Section 2-102, 3-103, or 3-105 of the Illinois Human Rights Act.

(21) (Blank).

(22) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(23) Offering or advertising real estate for sale or

lease at auction without a valid broker or managing broker's license under the Real Estate License Act of 1983, or any successor Act, unless exempt from licensure under the terms of the Real Estate License Act of 2000, or any successor Act, except as provided ~~for~~ in Section 5-32 of the Real Estate License Act of 2000.

(24) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability.

(25) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(26) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or a neglected child as defined in the Abused and Neglected Child Reporting Act.

(27) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

(28) Willfully ~~Wilfully~~ failing to report an instance

of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

The entry of an order by a circuit court establishing that any person holding a license under this Act is subject to involuntary admission or judicial admission, as provided ~~for~~ in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension of that license. That person may have his or her license restored only upon the determination by a circuit court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient and upon the Board's recommendation to the Department that the license be restored. Where circumstances so indicate, the Board may recommend to the Department that it require an examination prior to restoring a suspended license.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated,

renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department. If ~~In instances in which~~ the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 21 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under ~~the provisions of~~ his or her license.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining

physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination when directed shall be grounds for suspension of his or her license until the individual submits to the examination, if the Department finds that, after notice and hearing, the refusal to submit to the examination was without reasonable cause.

(Source: P.A. 98-553, eff. 1-1-14.)

(225 ILCS 407/20-43)

(Section scheduled to be repealed on January 1, 2020)

Sec. 20-43. Investigations; notice and hearing. The Department may investigate the actions or qualifications of any applicant, unlicensed person, or person rendering or offering to render auction services, or holding or claiming to hold a license as a licensed auctioneer. At least 30 days before any disciplinary hearing under this Act, the Department shall: (i) notify the accused in writing of the charges made and the time and place of the hearing; (ii) direct the accused to file with

the Board a written answer under oath to the charges within 20 days of receiving service of the notice; and (iii) inform the accused that if he or she fails to file an answer to the charges within 20 days of receiving service of the notice, a default judgment ~~judgement~~ may be entered against him or her, or his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license as the Department may consider proper, including, but not limited to, limiting the scope, nature, or extent of the licensee's practice, or imposing a fine.

At the time and place of the hearing fixed in the notice, the Board shall proceed to hear the charges and the accused or his or her counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments in his or her defense. The Board may continue the hearing when it deems it appropriate.

Notice ~~Written notice~~ of the hearing may be served by personal delivery, ~~or~~ by certified mail, or, at the discretion of the Department, by an electronic means to the licensee's last known address or email address of record. ~~to the last known address of record, unless specified as otherwise by the accused in his or her last communication with the Department.~~

(Source: P.A. 96-730, eff. 8-25-09.)

(225 ILCS 407/20-56)

(Section scheduled to be repealed on January 1, 2020)

Sec. 20-56. Board; rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant, ~~or licensee, or unlicensed person~~ by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. ~~The Department may respond to the motion for rehearing within 20 days after its service on the Department.~~ If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the Board ~~except as provided in Section 120 of this Act.~~ If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(Source: P.A. 96-730, eff. 8-25-09.)

(225 ILCS 407/10-15a rep.)

(225 ILCS 407/10-35 rep.)

(225 ILCS 407/20-25 rep.)

(225 ILCS 407/20-70 rep.)

Section 15. The Auction License Act is amended by repealing

Public Act 101-0345

SB1674 Enrolled

LRB101 08972 JRG 54065 b

Sections 10-15a, 10-35, 20-25, and 20-70.

Section 99. Effective date. This Act takes effect upon becoming law.